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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 13020/2025 & CM APPL. 53267/2025**

MS NATIONAL HIGHWAYS INFRA INVESTMENT MANAGERS PRIVATE LIMITED .....Petitioner

Through: Mr. Rajat Mittal, Mr. B.L. Goyal, Mr. Priyanshu and Ms. Krati Agarwal, Advs.

versus

COMMISSIONER CENTRAL GOODS AND SERVICE TAX & ORS. .....Respondents

Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj and Mr. Vipul Kumar, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

O R D E R

% 01.09.2025

1. This hearing has been done through hybrid mode.

CM APPL. 53268/2025

2. Allowed subject to all just exceptions. Accordingly, the application is disposed of.

CM APPL. 53269/2025

3. This is an application for permission from filing of lengthy synopsis. For the reasons stated in the application, the application is allowed. The application disposed of.

W.P.(C) 13020/2025 & CM APPL. 53267/2025

4. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, assailing the Show Cause Notice

(hereinafter, *'SCN'*) dated 22nd July, 2025 issued by Respondent No. 1.

5. The Petitioner is a 100% subsidiary of the Government of India which seeks quashing of the SCN dated 22nd July, 2025 where there is a proposal to demand interest to the tune of Rs. 1,64,17,028/-.

6. The case of the Petitioner is that the Government of India had created an Infrastructure Investment Trust (hereinafter, *'InvIT'*) which is regulated by the Securities and Exchange Board of India (hereinafter, *'SEBI'*). The said trust raises capital from investors through issuance of units and debt instruments and it acquires the right to operate tolls through concession or lease of stretches on national Highways as may be granted by the National Highways Authority of India (hereinafter, *'NHAI'*). InvIT manages these assets through Special Purpose Vehicles (hereinafter, *'SPVs'*). The National Highway Infrastructure Trust (hereinafter, *'NHIT'*) is the trust which is overseeing the said function under the SEBI (Infrastructure Investment Trusts) Regulations, 2014. The funds raised by NHIT are then paid to the NHAI as upfront consideration.

7. In the present case, an agreement was entered into for the management of funds of NHIT dated 21st October, 2020 which was signed by NHIT through its Trustee being, IDBI Trusteeship Limited. As per the Petitioner, though the agreement was entered in October, 2020, the actual rendering of services etc. commenced in the next financial year for which invoices were also raised by the Petitioner.

8. The case of the Department is that due to application of Section 31(5) of the Central Goods and Service Tax Act, 2017 (hereinafter, *'CGST Act'*), since the due date of payment is ascertainable from the contract, the Petitioner has delayed the raising of the invoices and hence, the charge of interest for a period of approximately one year.

9. Ld. Counsel for the Petitioner has placed reliance on the invoices which are all dated in the next financial year whereas, the case of the Department is that the amount should have been paid earlier.

10. According to the Petitioner, the amounts were received only in the next financial year, but according to the Department the services were rendered in 2021, hence, Goods and Services Tax (hereinafter, *'GST'*) was payable.

11. The Petitioner also challenges the Constitutional validity of Section 31(5) of the CGST Act in the present case.

12. Issue notice. Mr. Anurag Ojha, ld. SSC for the Respondent, accepts notice.

13. Let ld. SSC for the Respondent file a counter affidavit within four weeks. Rejoinder thereto be filed within four weeks thereafter.

14. The proceedings in the SCN dated 22nd July, 2025 shall continue. Reply to the SCN shall be filed by the Petitioner and a personal hearing shall also be granted. Thereafter, a final order may be passed, however the same shall not be given effect to.

15. List before Joint Registrar on 23rd September, 2025.

16. List before the Court on 12th December, 2025.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

SEPTEMBER 1, 2025/kp/ck